

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

JEAN-MARIE PIERROT,

Plaintiff,

-v-

9:15-CV-1415
(DNH/CFH)

SERGEANT HAHN, Great Meadow
Correctional Facility; and MICHAEL
PISERCHIA, Correction Officer, Adirondack
Correctional Facility,

Defendants.

APPEARANCES:

OF COUNSEL:

JEAN-MARIE PIERROT
Plaintiff pro se
115-124 Springfield Blvd
Cambria Heights
Queens, NY 11411

HON. ERIC T. SCHNEIDERMAN
Attorney General for the State of New York
Attorney for Defendants
The Capitol
Albany, NY 12224

SHANNAN COLLIER KRASNOKUTSKI,
ESQ.
Ass't Attorney General

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se plaintiff Jean-Marie Pierrot, incarcerated at Adirondack Correctional Facility at the time of the events giving rise to this lawsuit, brought this civil rights action pursuant to 42 U.S.C. § 1983. On July 28, 2017, the Honorable Christian F. Hummel, United States Magistrate Judge, advised by Report-Recommendation that defendants' motion for summary judgment be granted in part and denied in part. He recommended that defendants' motion be

denied as to plaintiff's excessive force claim and that claim proceed. He further advised that defendants' request for qualified immunity be denied but that the motion for summary judgment be granted as to plaintiff's retaliation claim and that claim be dismissed. No objections to the Report-Recommendation were filed.

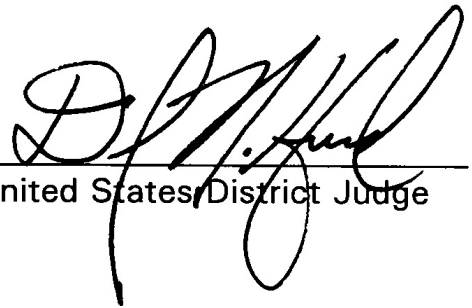
Based upon a de novo review of the Report-Recommendation, the Report-Recommendation is accepted in whole. See 28 U.S.C. § 636(b)(1).

Therefore, it is

ORDERED that

1. Defendants' motion for summary judgment is GRANTED in part and DENIED in part;
2. Defendants' motion for summary judgement is DENIED as to the excessive force claim;
3. Defendants' motion for summary judgment on the basis of qualified immunity is DENIED;
4. Defendants' motion for summary judgment dismissing the retaliation claim is GRANTED and that claim is DISMISSED;
5. The following claim remains for trial: excessive use of force asserted against defendants Hahn and Piserchia;
6. Trial in this matter is scheduled for March 5, 2018 in Utica, New York; and
7. Pro bono trial counsel be appointed for plaintiff.

IT IS SO ORDERED.



United States District Judge

Dated: September 21, 2017
Utica, New York.